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TECHNOLOGY CENTER 3600

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In re Application of	:	DECISION ON PETITION
William C. Cortner Jr.	:	TO WITHDRAW THE
Application No. 10/779,916	:	HOLDING OF
Filed: February 17, 2004	:	ABANDONMENT

For: INSECTICIDE APPLICATOR AND METHOD FOR LIVESTOCK

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on June 17, 2005.

The petition is **DISMISSED**.

A review of the file record reveals that the application became abandoned for failure to respond to the Office action (non-final rejection) mailed to applicant on September 13, 2004. A Notice of Abandonment was mailed on May 17, 2005.

Applicant's petition indicates that the Office action was never received.

There is a strong presumption that the Office communication, properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating that the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office to which the action was properly sent with the due date at and around March 13, 2005.** See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

Practitioner submits a statement that the above-noted Office action was not received. Practitioner also attests to the fact that a search of the file jacket and docket records indicates that the Office action was not received. Applicant's petition provides a copy of a docket record showing where such action would have been entered had it been received.

The petitioner has failed to comply with requirement (3) indicated above. Petitioner has not provided a complete docket record with a copy of the list of all responses in the practitioner's office to which the action was sent with the due date at and around March 13, 2005.

Petitioner's evidence of non-receipt of the Office action mailed May 17, 2005 is insufficient to withdraw the holding of abandonment, and the petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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KJD/mng: 8/10/05